

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

----- X  
TERRANCE JACKSON,

Plaintiff,

-against-

THE CITY OF NEW YORK, POLICE OFFICER  
MICHAEL L. MITCHELL, Shield #12463, POLICE  
OFFICERS JOHN/JANE DOE(S) #'S 1-3,

Defendants.  
----- X

**ANSWER**

08 CV 1987 (GBD)

**Jury Trial Demanded**

Defendants City of New York and Police Officer Michael Mitchell by their attorney Michael A. Cardozo, Corporation Counsel of the City of New York, for their answer to the complaint, respectfully allege, upon information and belief, as follows:

1. Deny the allegations set forth in paragraph "1" of the Complaint, except admit that plaintiff was arrested on or about January 16, 2007.
2. Deny the allegations set forth in paragraph "2" of the Complaint, except admit that plaintiff purports to invoke the jurisdiction of the Court as stated therein.
3. Deny knowledge or information sufficient to form a belief as to the truth the allegations set forth in paragraph "3" of the Complaint.
4. Deny the allegations set forth in paragraph "4" of the complaint, except admit that the City of New York is a municipal corporation and that it maintains a police department.
5. Deny the allegations set forth in paragraph "5" of the Complaint, except admit that Michael Mitchell is employed by the New York City Police Department ("NYPD").

6. Deny knowledge or information sufficient to form a belief as to the truth the allegations set forth in paragraph “6” of the Complaint.

7. Paragraph “7” of the complaint contains legal conclusions, rather than averments of fact, to which no response is required.

8. Deny knowledge or information sufficient to form a belief as to the truth the allegations set forth in paragraph “8” of the Complaint.

9. Deny the allegations set forth in paragraph “9” of the Complaint.

10. Deny the allegations set forth in paragraph “10” of the Complaint, except admit that plaintiff was arrested on or about January 16, 2007.

11. Deny the allegations set forth in paragraph “11” of the Complaint, except admit that plaintiff was strip searched.

12. Deny the allegations set forth in paragraph “12” of the Complaint.

13. Deny the allegations set forth in paragraph “13” of the Complaint, except admit that plaintiff was transported to Kings County Hospital and deny knowledge or information sufficient to form a belief as to the truth of the allegations regarding plaintiff’s medical treatment at the hospital.

14. Deny knowledge or information sufficient to form a belief as to the truth the allegations set forth in paragraph “14” of the Complaint.

15. Deny knowledge or information sufficient to form a belief as to the truth the allegations set forth in paragraph “15” of the Complaint.

16. Deny knowledge or information sufficient to form a belief as to the truth the allegations set forth in paragraph “16” of the Complaint.

17. Deny the allegations set forth in paragraph "17" of the Complaint, except admit that a document purporting to be a Notice of Claim was received by the Comptroller's Office on or about April 25, 2007.

18. Deny the allegations set forth in paragraph "18" of the Complaint, except admit that matter has not been settled.

19. In response to the allegations set forth in paragraph "19" of the Complaint, defendants repeat and reallege the responses set forth in paragraphs "1" through "18," as if fully set forth herein.

20. Deny the allegations set forth in paragraph "20" of the complaint.

21. Deny the allegations set forth in paragraph "21" of the Complaint.

22. Deny the allegations set forth in paragraph "22" of the Complaint.

23. Deny the allegations set forth in paragraph "23" of the Complaint.

24. Deny the allegations set forth in paragraph "24" of the Complaint.

25. Deny the allegations set forth in paragraph "25" of the Complaint.

26. Deny the allegations set forth in paragraph "26" of the Complaint.

27. In response to the allegations set forth in paragraph "27" of the Complaint, defendants repeat and reallege the responses set forth in paragraphs "1" through "26," as if fully set forth herein.

28. Deny the allegations set forth in paragraph "28" of the Complaint.

29. Deny the allegations set forth in paragraph "29" of the Complaint.

30. Deny the allegations set forth in paragraph "30" of the Complaint.

31. Deny the allegations set forth in paragraph "31" of the Complaint.

32. Deny the allegations set forth in paragraph "32" of the Complaint.

33. Deny the allegations set forth in paragraph “33” of the Complaint.

34. In response to the allegations set forth in paragraph “34” of the Complaint, defendants repeat and reallege the responses set forth in paragraphs “1” through “33,” as if fully set forth herein.

35. Deny the allegations set forth in paragraph “35” of the Complaint.

36. Deny the allegations set forth in paragraph “36” of the Complaint.

37. Deny the allegations set forth in paragraph “37” of the Complaint.

38. Deny the allegations set forth in paragraph “38” of the Complaint.

39. Deny the allegations set forth in paragraph “39” of the Complaint.

40. Deny the allegations set forth in paragraph “40” of the Complaint.

41. Deny the allegations set forth in paragraph “41” of the Complaint.

42. Deny the allegations set forth in paragraph “42” of the Complaint.

43. Deny the allegations set forth in paragraph “43” of the Complaint.

44. Deny the allegations set forth in paragraph “44” of the Complaint.

45. Deny the allegations set forth in paragraph “45” of the Complaint.

46. Deny the allegations set forth in paragraph “46” of the Complaint.

47. Deny the allegations set forth in paragraph “47” of the Complaint.

48. In response to the allegations set forth in paragraph “48” of the Complaint, defendants repeat and reallege the responses set forth in paragraphs “1” through “47,” as if fully set forth herein.

49. Deny the allegations set forth in paragraph “49” of the Complaint.

50. Deny the allegations set forth in paragraph “50” of the Complaint.

51. Deny the allegations set forth in paragraph “51” of the Complaint.

52. Deny the allegations set forth in paragraph “52” of the Complaint.

53. Deny the allegations set forth in paragraph “53” of the Complaint.

54. Deny the allegations set forth in paragraph “54” of the Complaint.

55. Deny the allegations set forth in paragraph “55” of the Complaint.

56. Deny the allegations set forth in paragraph “56” of the Complaint.

57. In response to the allegations set forth in paragraph “57” of the Complaint, defendants repeat and reallege the responses set forth in paragraphs “1” through “56,” as if fully set forth herein.

58. Deny the allegations set forth in paragraph “58” of the Complaint.

59. Deny the allegations set forth in paragraph “59” of the Complaint.

60. Deny the allegations set forth in paragraph “60” of the Complaint.

61. Deny the allegations set forth in paragraph “61” of the Complaint.

62. In response to the allegations set forth in paragraph “62” of the Complaint, defendants repeat and reallege the responses set forth in paragraphs “1” through “61,” as if fully set forth herein.

63. Deny the allegations set forth in paragraph “63” of the Complaint.

64. Deny the allegations set forth in paragraph “64” of the Complaint.

65. Deny the allegations set forth in paragraph “65” of the Complaint.

66. In response to the allegations set forth in paragraph “66” of the Complaint, defendants repeat and reallege the responses set forth in paragraphs “1” through “65,” as if fully set forth herein.

67. Deny the allegations set forth in paragraph “67” of the Complaint.

68. Deny the allegations set forth in paragraph “68” of the Complaint.

69. Deny the allegations set forth in paragraph "69" of the Complaint.

70. In response to the allegations set forth in paragraph "70" of the Complaint, defendants repeat and reallege the responses set forth in paragraphs "1" through "69," as if fully set forth herein.

71. Paragraph "71" of the complaint contains legal conclusions, rather than averments of fact, to which no response is required.

72. Paragraph "72" of the complaint contains legal conclusions, rather than averments of fact, to which no response is required.

73. Deny the allegations set forth in paragraph "73" of the Complaint.

74. Deny the allegations set forth in paragraph "74" of the Complaint.

75. Deny the allegations set forth in paragraph "75" of the Complaint.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE:**

76. The Complaint fails to state a claim upon which relief can be granted.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE:**

77. Defendants have not violated any rights, privileges or immunities under the Constitution or laws of the United States or the State of New York or any political subdivision thereof, nor has defendant City violated any act of Congress providing for the protection of civil rights.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE:**

78. At all times relevant to the acts alleged in the Complaint, defendants, acted reasonably, properly, lawfully, and in good faith in the exercise of their discretion. Therefore, defendant City is entitled to governmental immunity from liability.

**AS AND FOR A FOURTH AFFIRMATIVE DEFENSE:**

79. Any injury alleged to have been sustained resulted from plaintiff's own culpable or negligent conduct or the negligent or culpable conduct of others and was not the proximate result of any act of the defendants.

**AS AND FOR A FIFTH AFFIRMATIVE DEFENSE:**

80. There was probable cause for plaintiff's arrest, detention and prosecution.

**AS AND FOR A SIXTH AFFIRMATIVE DEFENSE:**

81. Punitive damages are not recoverable against the City of New York.

**AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE:**

82. This action may be barred, in whole or in part, by the applicable statute of limitations period.

**AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE:**

83. This action may be barred, in whole or in part, by the doctrines of res judicata and/or collateral estoppel.

**AS AND FOR A NINTH AFFIRMATIVE DEFENSE:**

84. Defendant Police Officer Mitchell did not violated any clearly established constitutional or statutory rights of which a reasonable person would have known and therefore is protected by qualified immunity.

**AS AND FOR A TENTH AFFIRMATIVE DEFENSE:**

85. Plaintiff provoked any incident.

**AS AND FOR AN ELEVENTH AFFIRMATIVE DEFENSE:**

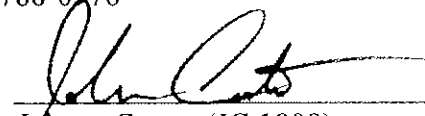
86. At all times relevant to the acts alleged by plaintiff, defendant Police Officer Mitchell acted reasonably in the proper and lawful exercise of his discretion.

**WHEREFORE**, defendants City of New York and Police Officer Mitchell request judgment dismissing the Complaint in its entirety, together with the costs and disbursements of this action, and such other and further relief as the Court may deem just and proper.

Dated: New York, New York  
May 19, 2008

MICHAEL A. CARDOZO  
Corporation Counsel of the  
City of New York  
Attorney for Defendants City of New York and  
Police Officer Mitchell  
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New York, New York 10007  
(212) 788-0976

By:

  
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Johana Castro (JC 1809)  
Assistant Corporation Counsel  
Special Federal Litigation Division

TO: David Zelman, Esq.  
Attorney for Plaintiff  
612 Eastern Parkway  
Brooklyn, New York 11225



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**ANSWER**

**MICHAEL A. CARDOZO**

*Corporation Counsel of the City of New York  
Attorney for Defendants City of New York and  
Police Officer Mitchell  
100 Church Street  
New York, N.Y. 10007*

*Of Counsel: Johana Castro  
Tel: (212) 788-0976  
NYCLIS No.*

*Due and timely service is hereby admitted.*

*New York, N.Y. ...., 200.....*

*..... Esq.*

*Attorney for.....*